

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK**

GERALD P. CZUBA, individually and on)	
behalf of a Class of others similarly)	
situated,)	
)	
Plaintiff,)	Case No. 09-CV-0409
)	
v.)	Hon. William M. Skretny
)	
IKO MANUFACTURING, INC., a)	
Delaware Corporation,)	
)	
Defendant.)	

**NOTICE OF MOTION FOR EXTENSION OF TIME TO ANSWER
OR OTHERWISE RESPOND TO PLAINTIFF’S COMPLAINT**

Moving Party:	Defendant, IKO Manufacturing, Inc.
Date and Time:	At a date and time to be determined by the Court.
Place:	U.S. Courthouse, 68 Court Street, 4 th Floor, Buffalo, New York
Supporting Papers:	Declaration of Joseph W. Dunbar, Esq.
Relief Requested:	An order granting Defendant an extension of time to answer or otherwise respond to Plaintiff’s complaint.
Grounds for Relief:	FRCP Rule 6(b).
Answering Papers:	If any, are required to be served at least three business days prior to the return date of this motion, in accordance with Local Rule 7.1(c).

Oral Argument:

Not requested.

DATED: May 22, 2009

Respectfully submitted,

DAMON & MOREY, LLP

By: s/Joseph W. Dunbar

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***Attorneys for Defendant,
IKO MANUFACTURING, INC.***

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Plaintiff,)	Case No. 09-CV-0409
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IKO MANUFACTURING, INC., a)	
Delaware Corporation,)	
)	
Defendants.)	

**UNOPPOSED MOTION FOR AN EXTENSION OF TIME TO
ANSWER OR OTHERWISE RESPOND TO PLAINTIFF’S COMPLAINT**

Defendant IKO Manufacturing, Inc. (“IKO”)¹ respectfully requests that this Court grant it an extension of time to file an answer or otherwise respond to Plaintiff Gerald P. Czuba’s Complaint. In support, IKO states the following:

1. Plaintiff filed his Complaint on April 29, 2009. (Dkt. No. 1). IKO was served with the Complaint on May 4, 2009. (Dkt. No. 6).
2. In his Complaint, Plaintiff has alleged a wide-reaching consumer class action “on behalf of all persons and entities who purchased IKO shingles.” (Cmplt. ¶ 4).
3. The undersigned counsel was only recently retained by IKO, and will need additional time to respond to the complex legal and factual issues raised by the allegations in Plaintiff’s Complaint.

¹ In the caption of Plaintiff’s Complaint, Plaintiff mistakenly identified IKO Manufacturing, Inc. as “IKO Manufacture, Inc.”

4. Accordingly, IKO respectfully requests at this time for an extension of thirty (30) days in order to adequately answer or otherwise respond to Plaintiff's Complaint. A proposed order is attached.

5. IKO's counsel has contacted the attorneys for Plaintiff and is advised that the Plaintiff consents to the relief requested herein.

6. IKO has not previously sought an extension in this matter.

7. This Motion is made without waiver of any defenses, including but not limited to lack of personal jurisdiction.

8. Because this Complaint is similar, if not identical, to other complaints filed in other federal courts, *see Zanetti v. IKO Manufacturing, Inc.*, No. 2:09-cv-2017 (D.N.J. filed April 29, 2009), *McNeil et al. v. IKO Manufacturing, Inc.*, No. 2:09-cv-02105 (C.D. Ill. filed April 30, 2009), IKO may seek to consolidate the actions before a single federal court by filing a motion with the Judicial Panel on Multidistrict Litigation. In that event, IKO may seek additional time in which to answer or otherwise plead.

WHEREFORE, Defendant IKO Manufacturing, Inc. requests that this Court grant it an extension of time to answer or otherwise respond until June 22, 2009.

DATED: May 22, 2009

Respectfully submitted,

DAMON & MOREY, LLP

By: s/Joseph W. Dunbar

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***Attorneys for Defendant,
IKO MANUFACTURING, INC.***

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)	
Defendants.)	

[PROPOSED] ORDER

Upon consideration of Defendant IKO Manufacturing, Inc.'s Unopposed Motion for an Extension of Time to Answer or Otherwise Respond to Plaintiff's Complaint, it is hereby ORDERED that the Motion is GRANTED, and the time for IKO Manufacturing, Inc. to answer or otherwise plead in this matter is extended until June 22, 2009.

Dated: _____

Hon. William M. Skretny

Certificate of Service

I, Joseph W. Dunbar, Esq. hereby certify and affirm that on the 22nd day of May, 2009, I electronically filed the foregoing **MOTION FOR AN EXTENSION OF TIME TO ANSWER OR OTHERWISE RESPOND TO PLAINTIFF'S COMPLAINT** with the Clerk of the United States District Court for the Western District of New York using its CM/ECF system, which would then electronically notify the following CM/ECF participants of this filing:

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And, I further certify and affirm that I have mailed the foregoing via post-paid first class mail, to the following non-CM/ECF participants:

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